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26 SEP 1983

MEMORANDUM FOR: Roger Robinson
Director of International Economic Affairs
National Security Council

FROM: Lionel H. Olmer *Original Signed*
Under Secretary for International Trade

SUBJECT: EAA: SIG-IEP Votes on Key Issues

At last Friday's meeting of the SIG-IEP to discuss remaining EAA renewal issues, Secretary Regan requested all agencies to vote on the seven issues identified at that meeting by today. The agencies' preferences are reflected in the attached document.

Clearly, there remain significant differences on many of the issues. These differences must be resolved as soon as possible. House consideration of the EAA has already begun, and Senate action could begin this week.

Please initiate whatever action is necessary to resolve these questions. We are prepared to assist in whatever way you request.

Attachment

NSC review completed.

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CONTRACT SANCTITY
(FOREIGN POLICY CONTROLS)

Issue - What position should the Administration adopt on contract sanctity?

Options

Option 1 - House ("Berman") language.

*Agencies Supporting: Commerce; State; Treasury; Defense; Justice

Option 2 - Compromise between House and Administration position.

Existing contracts cannot be affected unless:

- ° Prior Congressional consultation
- ° Prior report to Congress
- ° Presidential determination that not applying controls would severely damage the United States national interest.

*Agencies Supporting: Agriculture; OPD; USTR (fallback position);

Option 3 - Continue to support provision in Administration bill.

*Agencies Supporting: USTR

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EXTRATERRITORIALITY
(FOREIGN POLICY)

Issue - What position should the Administration adopt on the extraterritorial reach of foreign policy controls?

Options

Option 1 - Strike.

*Agencies Supporting: Commerce; Defense; Treasury;
Agriculture; Justice

Option 2 - Strike House provision and substitute provision which permits extraterritorial controls but requires President to try to negotiate foreign country agreements on the use of these controls (Rep. Roth).

*Agencies Supporting: USTR; Defense (fallback position);
Commerce (fallback position); Treasury (fallback position)

Option 3 - Strike, but exclude foreign subsidiaries of U.S. firms from foreign policy controls.

*Agencies Supporting: State; OPD

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CONGRESSIONAL CONSULTATION
(FOREIGN POLICY CONTROLS)

Issue - What position should the Administration adopt on proposed Congressional consultation provisions?

Options

Option 1 - Strike.

*Agencies Supporting: Defense; OPD

Option 2 - Do not oppose prior consultation but strike requirement to report to Congress prior to imposition, expansion or extension of controls.

*Agencies Supporting: State; USTR (but permit the President to take emergency action without prior reporting or consulting); Treasury

Option 3 - Do not oppose.

*Agencies Supporting: Commerce; Agriculture; Justice; Treasury (fallback)

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NATIONAL SECURITY CONTROLS
UNILATERAL CONTROLS

Issue - What position should the Administration adopt on the House provision to decontrol certain unilaterally controlled national security items?

Options

Option 1 - Strike.

*Agencies Supporting: All agencies support (State, Defense, Commerce, USTR, Treasury, Agriculture; OPD); Justice

Option 2 - Strike current provision and substitute requirement to decontrol unilaterally controlled items, available from foreign sources, if we are unsuccessful in obtaining multilateral controls within a specified time.

*Agencies Supporting: None

Option 3 - Modify provision to allow the Secretary, by regulation, to require licenses for certain types and categories of end-users and end-uses.

*Agencies Supporting: None

Option 4 - Limit House provisions to unilaterally controlled goods which are available from foreign sources.

*Agencies Supporting: None

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FOREIGN AVAILABILITY

Issue - What position should the Administration adopt on proposals relating to foreign availability?

Options

Burden-Shifting Provisions:

Option 1 - Strike.

*Agencies Supporting: Defense; Commerce; Agriculture; Treasury; OPD

Option 2 - Require applicant to present "clear and convincing evidence" before burden shifts to government to disprove foreign availability.

*Agencies Supporting: State; USTR; Justice; Treasury (fallback)

Senate Foreign Policy 6 Month Decontrol:

Option 1 - Strike.

*Agencies Supporting: Defense

Option 2 - Extend time period to one year.

*Agencies Supporting: Commerce; OPD; Agriculture; Defense (fallback position); Treasury

Option 3 - Support, because of intentional loophole.

*Agencies Supporting: USTR; State (if the Commerce role is limited to determining foreign availability while the Secretary of State is empowered to determine the foreign policy implications of that availability); Justice

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House National Security 6 Month Decontrol:

Option 1 - Strike.

*Agencies Supporting: All agencies support (State; Treasury; Agriculture; USTR; Commerce; Defense; OPD, Justice)

Option 2 - Limit decontrol to unilaterally controlled items.

*Agencies Supporting: None

Option 3 - Extend negotiating time period to one year.

*Agencies Supporting: None

Option 4 - Combine options 2 and 3.

*Agencies Supporting: None

Option 5 - Support, if loophole similar to Senate foreign policy control loophole is added.

*Agencies Supporting: USTR (fallback position);
Commerce (fallback position)

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LICENSING OF COCOM TRADE

Issue - What position should the Administration adopt on the issue of licensing trade to COCOM countries?

Options

Option 1 - Support Senate provision, but clarify that the item must be on both the MCTL and the Commodity Control List.

*Agencies Supporting: Commerce; Defense; Agriculture; Treasury

Option 2 - No decontrol of COCOM trade, but reduce licensing time from 90 days to 30 days.

*Agencies Supporting: Treasury (fallback); Defense (fallback); Justice

Option 3 - Support House provision, but modify to allow the Secretary, by regulation, to require licenses for certain types and categories of end-users and end-uses.

*Agencies Supporting: State; STR; OPD

Option 4 - Eliminate COCOM licensing for items below the "administrative exceptions note" level, and reduce licensing time to 30 days on remaining items. (Rep. Roth).

*Agencies Supporting: None

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AGRICULTURE

Issue - Should the Administration oppose new Congressional limitations on the President's authority to control the export of agricultural commodities?

Options

National Security:

Option 1 - Oppose Senate limitations.

*Agencies Supporting: Defense; USTR; Commerce; OPD; Treasury (but as fallback could accept some strengthening); Justice

Option 2 - Do not oppose.

*Agencies Supporting: State; Agriculture

Foreign Policy:

Option 1 - Oppose House and Percy/Dixon limitations.

*Agencies Supporting: State; Defense; USTR; Commerce; OPD; Treasury (but as fallback could compromise); Justice

Option 2 - Do not oppose.

*Agencies Supporting: Agriculture

Short Supply:

Option 1 - Oppose House limitation.

*Agencies Supporting: State; Defense; USTR; Commerce; OPD; Treasury (but, as fallback could compromise); Justice

Option 2 - Do not oppose.

*Agencies Supporting: Agriculture

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